

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.287 OF 2018

Jitendra Shyamsunder Indoria & Ors. .. Applicants

Vs.

State of Maharashtra & Anr. .. Respondents

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Mr.Sujit B. Shelar, Advocate for the Applicants.
Mrs.G.P.Mulekar, APP for the Respondent - State.
Mr.D.P. Adsule, Advocate for Respondent No.2.
Mr.Darade, API, Dindoshi Police Station, present.
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CORAM : PRAKASH D. NAIK, J.

DATED : AUGUST 30, 2018.

P.C. :

The applicants are apprehending arrest in connection with CR No.55 of 2018, registered with Dindoshi Police Station, Malad, Mumbai, for the offences punishable under Sections 498(A), 406, 323, 504, 506 read with 34 of IPC.

2 Applicants preferred application for bail before the Sessions Court, which was rejected. Applicant no.1 is the husband and applicant nos.2 and 3 are father-in-law and mother-in-law, respectively, of the complainant/respondent no.2. FIR was lodged on 24th January, 2018. The marriage between applicant

no.1 and respondent no.2 was solemnized on 19th May, 2015. Prosecution case is that after marriage, the accused started taunting complainant that the gift given by her father was of inferior quality. She also subjected to harassment. The accused demanded transfer of 2 BHK flat at Borivali purchased by her father in the complainant's name to the name of applicant no.1. The complainant was continuously abused and threatened. On 7th June, 2016, the complainant was forced her to abort ten weeks old fetus. The husband threatened her and compelled to undergo abortion. On 17th June, 2016, under the pretext of complainant being taken to Gynecologist, she was was taken to Psychiatric doctor. On consultation, doctor informed the accused that the complainant requires psychiatric treatment. The gold ornaments and other articles belonging to the complainant were misappropriated by the accused.

3 Applicants were granted interim protection by this Court vide order dated 16th February, 2018. Thereafter, the matter was referred to the Mediator to explore the possibility of settlement. However, Mediation has failed. Learned advocate for the applicants submitted that the complaint is false and frivolous. Applicants were willing to hand over the articles lying in the

house as well as the ornaments to the investigating officer, however, father of the complainant has refused to accept the same. It is further submitted that the applicants have attended the police station and have co-operated the investigation. It is submitted that the allegations about forced operation is completely false. Learned counsel pointed out the text messages forwarded by the complainant. In one of the message, it was stated that the complainant was not interested in the child. It is further submitted that applicant no.1 had forwarded complaint to the police on 17th December, 2017. Accused, complainant and her relations have harassing and abusing them. In the said complaint, it was stated that he is willing to produce the belonging of the complainant to the police station, however, father-in-law has refused to take it and stated that besides gold and silver, all other items are used by the accused. Learned APP submitted that the applicants have committed serious offence. The gold, silver ornaments and cash worth Rs.11,75,328/-, were given to the complainant during the marriage, which are misappropriated by the accused. It is further submitted that the complainant was forced to undergo operation at Sanjeevani Hospital, Malad (East), Mumbai on 7th June, 2016. For recovery of properties viz. ornaments and other articles, custodial interrogation of the

applicants is necessary. Learned advocate for the intervener submits that the complainant was abused and harassed continuously by the applicants, which amounts to cruelty under Section 498 of IPC. It is further submitted that complainant was taken to the hospital by applicant no.1, which is evident from the medical documents. She was forced to undergo operation, and, thereby the accused are liable to be prosecuted for offence under Section 313 of IPC. He submitted that during the act attributing to the accused in the FIR and the other documents, the application be rejected.

4 I have gone through the documents. The First Information Report was lodged on 24th January, 2018. The marriage was solemnized on 19th May, 2015. The alleged incident of abortion was of 7th June, 2016. There is no earlier complaint about the forced abortion of the complainant. FIR was lodged in 2018. There is nothing on record to show that the complainant was forced to undergo abortion. Applicants have shown their willingness to produce whatever property was lying with them at their residence. It is also pointed out that applicant no.1 had also lodged a NC case with Dindoshi Police Station

5 The dispute arose out of the matrimonial discord between the parties. Interim protection was granted to the applicant. Applicants have already attended the police station. In the light of the observations made hereinabove, case for grant of anticipatory bail is made out.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.287 of 2018, is allowed;
- (ii) In the event of arrest of the applicant in connection with CR No.55 of 2018, registered with Dindoshi Police Station, Mumbai, the applicants be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/-, each, with one or more separate solvent local sureties in the like amount;
- (ii) Applicants shall not tamper with the evidence and shall not pressurize the prosecution witnesses;

- (iii) Applicants are directed to attend concerned police station on 5th, 6th and 7th September, 2018, between 10:00 a.m. to 12:00 noon, and, shall hand over articles/ornaments in case there are any articles/ornaments lying in the residence of the applicant, the same shall be handed over to the police;
- (iv) Anticipatory Bail Application No.287 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)